

REMARKS

Claims 1-17 and 22-29 are currently pending in the application. By this amendment, claims 8, 12, 17 and 23 are amended for the Examiner's consideration. Claims 26-29 are added for the Examiner's consideration. No new matter is added. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Allowed Claims

Applicants appreciate the indication that claims 2-11, 13-17 and 23-25 contain allowable subject matter. Applicants, though, submit that all of the claims are in condition for allowance for the following reasons.

Objection to Drawings

The drawings were objected to based on formalities. More specifically, the Examiner is of the opinion that the cutting mechanism and the serrate mechanism are not shown in the figures. Applicants submit that these features are shown as reference numeral 110 in at least Figure 1.

Applicants thus request withdrawal of the objection to the drawings.

35 U.S.C. §112 Rejection

Claims 1-17 and 22-25 were rejected under 35 U.S.C. §112, 2nd paragraph. This rejection is partially traversed.

Loading Position/Second Position

Applicants submit that the loading position and the second position of the loading bed are two positions, much like that of the plate-like member (claims 1 and 12). In one illustrative embodiment, and not to place limitations in the invention, the loading position of the loading bed may be a position aligned with the output of the sorted product (Figure 2). The second position of the loading bed may be a retracted position, remote from the loading position (Figure 8).

Additionally, the loading position of the plate-like member may be remote from the alignment position of the loading bed (Figure 2). Also, the second position of the plate-like member may be in substantially the same relative position as the loading position of the loading bed (Figure 8).

As can thus be seen, the loading position and the second position of the plate-like member and the loading bed may be different, and hence the nomenclature used in the claims 1 and 12 is accurate.

Sealing Member over Loading Bed

Applicants submit that the “the sealing member ... over the loading bed” is an accurate statement, as recited in claims 1 and 12.

The Examiner is of the opinion that the sealing member does not always seal the wrap when the plate-like member is above the loading bed. Although this is basically a true statement, it is also equally true that the sealing member is over the loading bed during this sealing process. And, Applicant is free to claim subject matter which is not contrary to the specification, which is clearly applicable in this instance. (MPEP §2173.05(b)) This is clearly seen in Figures 4-8, for example.

Structural Relationship

The Examiner is of the opinion that there is inadequate structural relationship between the sealing member and the loading bed, as well as between the movements of the loading bed and the plate-like member. Applicants submit, though, that there is adequate structural relationship between all of the components recited in claims 1, 12 and 22.

Applicants submit that the claims recite (i) the sealing member is positioned at the end of the hinged portion of the plate-like member, and (ii) the sealing member seals a wrap about the product when the plate-like member is positioned over the loading bed. This clearly provides adequate structural relationship between the (i) sealing member, (ii) plate-like member, (iii) hinged portion, and (iv) loading bed.

As an illustration of this structural relationship, representative claim 1 recites:

a plate-like member moveable with respect to the loading bed between a loading position and a second position, the plate-like member having a hinged portion; and
a sealing member positioned at an end of the hinged portion, the sealing member sealing a wrap about a sequenced group of product to form a package when the plate-like member is positioned over the loading bed.

Accordingly, there is proper structural relationship between the loading bed and the sealing member (via the hinged portion), as recited in claims 1, 12 and 22.

Additionally, Applicants submit, as discussed above, there is adequate relationship between the loading position and the second position of the loading bed and the plate-like member. This can be seen in Figures 4 and 5, for example.

Descending to a Lowered Position

Applicants submit that there is adequate support in the specification for the loading bed to descend to a lowered position as the product is placed on the loading bed (claims 2 and 13). At page 11, lines 19-20, the specification specifically discloses:

The bed bag plate 104 may descend or lower during the stacking of the product. (Emphasis added.)

Of course, this does not exclude the interpretation that the loading bed can descend to a lowered position after the product is placed on the loading bed, as disclosed in the specification.

Second Position of Hinged Portion

Applicants submit that the second position of the hinged portion (claim 6 and 14) is not the same as the second position of either the plate-like member or the loading bed. Accordingly,

this is the reason that Applicant carefully selected the article “a” prior to “second position”, which relates specifically to the hinged portion. Applicants submit that this is clear and definite.

Product Stacked on Loading Bed

Applicants amend claims 8 and 17 to recite “product stacked on the loading bed. This should overcome the Examiner’s concern with regard to the lack of antecedent basis for “the product”.

Placement of the Serrate Mechanism

Claim 12 is amended to recite a clamping and serrate mechanism positioned proximate to the sealing member. This should overcome the Examiner’s concern with regard to the language of this claim.

Second Position of Hinged Portion

Applicants submit that the recitation of the second position, in claim 15, is clear and definite. It is clear from this claim that the second position refers to the second position of the hinged portion, and not any other recited feature. More specifically, claim 15 recites, in part:

the sealing member seals portions of the wrap when the hinged portion is in the second position. (Emphasis added.)

*Member Positioned Proximate
the Hinged Portion*

The Examiner is of the opinion that the placement of the hinge member is ambiguous in claim 22. Applicants submit that the language of claim 22 is not ambiguous. The claim language recites that the member is positioned proximate to the hinged portion, which finds support in the specification and at least Figures 1-13.

Additionally, the Examiner is of the opinion that the specification does not describe a sealing member that is positioned proximate to the hinged portion in such a way that the sealing

member seals the wrap independently with respect to the hinged portion. Applicants submit that claim 12 does not recite “independently” language, and that such language should not be read into the claim.

Claim 12 recites, instead:

a member positioned proximate to the hinged portion, the member sealing a wrap about a group of sequenced mail objects to form a package.

No other limitations should be placed in the claim.

The Sealing Member

Applicants amend claim 23 to delete the word “sealing” prior to “member”. This feature finds support in claim 22. Such amendment should now overcome the Examiner’s rejection with regard to claim 23.

*Movement of Loading Bed
and Bag Former Mechanism*

Claim 24 recites that the loading bed and the bag former mechanism may be in different positions. There is no requirement that any specific coordinates be defined in the claims. Applicants submit that it is sufficient to recite relational language without being indefinite. (MPEP §2173). As such, this claim, which defines different positions of these features, is clear and definite.

Placement of the Hinged Position

Applicants submit that the placement of the hinged portion resting on the loading bed in claim 25 is not ambiguous. As seen in Figure 1, the hinged portion is clearly seen to be resting on the loading bed. Although the Examiner is correct in noting that the hinged position does not always rest on the loading bed, there is nothing in either the specification or claims to exclude

such a position. With this understanding, Applicants are free to claim the aspects of the invention, as Applicants see fit, so long as it is not contrary to any teaching in the specification. (MPEP §2173.05(b)) In this instance, the recitation of language in claim 25 is certainly not contrary to any teaching in the specification, and is thus appropriate.

Accordingly, Applicants respectfully request that the rejection over claims 1-17 and 22-25 be withdrawn.

35 U.S.C. §102 Rejection

Claims 1 and 22 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,903,459 to Okinaka. This rejection is respectfully traversed.

The Examiner is of the opinion that the Okinaka reference shows all of the features of the independently claimed inventions. For example and with reference to claim 1, the Examiner is of the opinion that Okinaka shows a plate-like member (25) having a hinged portion (30). This does appear to be accurate.

In Okinaka, reference numeral 25 is not a plate-like member. Instead, reference numeral 25 is an L-shaped lever. In particular, col. 4, lines 38-42 disclose that

L-shaped levers 25 are radially disposed on the table 16 by being individually supported in four bearings 23, 23, 23, 23 fixed on the upper surface of the table 16 and through pins 24, the levers 25 being rotatable about the corresponding pins 24.

Accordingly, it is readily discernable that the level 25 is not plate like member, as recited in the claimed invention. Thus, the plate-like member is not shown in the Okinaka reference.

In addition, Applicants submit that reference numeral 30 of Okinaka is not a hinged portion, as recited in the claimed invention. Contrary to the Examiner's assertion, reference numeral 30 refers to a "chamber", as disclosed at col. 4, lines 45-55. According to Merriam Websters online dictionary, a chamber is defined as

2 : a natural or artificial enclosed space or cavity

Surely, such a definition of a chamber is different than a plate-like member.

Applicants do note, though, that the chamber can be pivoted into an upright (open) and closed position by a hinge pin 24, for example. But, this hinge mechanism is not a hinged portion of a plate-like member as recited in the claimed invention.

As to claim 22, the Examiner is of the further opinion that Okinaka inherently shows a conveyor for sequencing product. Applicants are of the opinion that this simply is not accurate. Okinaka is directed to packaging of food items. In such a system, there is no requirement or need, whatsoever, to sequence the product. Accordingly, it is the respectful opinion of Applicants that there is no evidence in Okinaka that would lead one of ordinary skill in the art to consider such a feature, e.g., sequencing of the product, to be inherent in the Okinaka disclosure.

Accordingly, Applicants respectfully request that the rejection over claims 1 and 22 be withdrawn.

35 U.S.C. §103 Rejection

Claim 12 was rejected under 35 U.S.C. §103(a) over Okinaka in view of U. S. Patent No. 5,386,678 to Kujubu and U.S. Patent No. 5,934,048 to Bouressa. This rejection is respectfully traversed.

Claim 12 recites, in part,

a bag former mechanism
a hinged portion positioned at an end of the bag former
mechanism;
a sealing member positioned at an end of the hinged
portion
....
the clamping and serrate mechanism clamps the
wrap during the movement of the bag former mechanism toward
the second position....

Applicants also agree that Okinaka does not show a clamping and serrate mechanism. However, Applicants submit that it would be contrary to the teaching of Okinaka to have a clamping and serrate mechanism that clamps the wrap during the movement of the bag former mechanism toward the second position, as argued by the Examiner. In Okinaka, it is only after the chamber 30 is closed, and stationary, that there would be any clamping of the wrap. This

mechanism cannot work in any other manner. In Bouressa, a serrate knife edge is provided; however, there appears to be no motivation or suggestion to use this serrate knife edge with the Okinaka mechanism. In Okinaka, the package would appear to have to be completely detached and dropped down into the system, prior to another bag entering into the chamber. If the bag were serrated, it simply would not be possible to load another bag into the chamber and then seal such bag. The serrated portion (end) of the bag would interfere with further sealing. This, however, is not the situation with the claimed invention due to the different positions of the loading bed and the plate-like member. Accordingly, even assuming *arguendo* that one of skill in the art would use either the knife or the serrate mechanism of Kujubu or Bouressa, respectively, such a combination would still not result in the claimed invention.

Lastly, Applicants submit that the knife of Kujubu is not used as a serrate mechanism and it would not have been obvious to have used such knife as a serrate mechanism. A serrate mechanism includes several notched or toothed projections, which is different from a knife. Applicants submit that it would also be difficult to modify such knife to be a serrate mechanism, and that neither of the references even remotely suggests the use of a serrate mechanism.

Accordingly, Applicants respectfully request that the rejection over claim 12 be withdrawn.

Added Claims

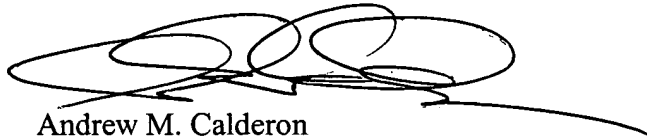
Claims 26-29 are added for the Examiner's consideration. Support for these added claims is provided in at least figures 2-8 and the description thereof.

Applicants submit that these claims are also distinguishable over the prior art references. For example, Okinaka does not show the wrap positioned over the loading bed, initially without product, when a loading bed is in its loading position. Okinaka also does not show the plate like member pulling a portion of the wrap over the product when moved to its second position, or a wrap supply which supplies the wrap on the loading bed when in its loading position and over the product when the plate-like member is moved to its second position. Instead, Okinaka shows a chamber which a bag and product are placed therein, in its entirety. .

CONCLUSION

Applicants appreciate the indication of allowable subject matter; however, in view of the foregoing remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 23-1951.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', with a long horizontal flourish extending to the right.

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